REMARKS

Claims 1-16 are pending in the application. Claims 12 and 13 have been amended, and new claims 17-20 have been added.

Examiner requires Applicant to elect among two groups of claims as his invention for examination. Examiner identifies Group II as a subcombination of Group I, on the basis that the combination as claimed does not require the particulars of the subcombination. Examiner identifies the subcombination as peptide YY, and more generally, that which may be administered other than by an aerosol spray.

Applicant elects Group 1, claims 1, 4-7, and 10-16, with traverse. Applicant makes this election without prejudice or waiver as to right to rejoinder or under 103(b).

Applicants respectfully request rejoinder of Group II claims, because Examiner's claim construction is incorrect with respect to the claims of Group II.

"A dependent claim ... includes a reference to at least one other claim in the patent and must be interpreted to encompass each of its own elements as well as any additional elements recited in the referenced claim." *Lampi v. American Power Products* 52 USPQ2d 1733 (N.D. Ill. 1999), aff'd in part, vacated in part and remanded 56 USPQ2d 1445 (Fed. Cir. 2005). See MPEP 608.01(n) (2001): "The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends ... or in other words that it shall not conceivably be infringed by anything which would not also infringe the base claim.

Properly construed, the claims of Group I do not include the limitations of Group II, depedent from Claims 1 and 7 of Group I. Because the dependent Group II claims incorporate the limitations of independent Claims 1 or 7, the subject matter of Group II is neither taught in the references cited by Examiner, nor in any other prior art.

Properly construed, none of the claims of Group II can be interpreted as having separate utility from Group I, from which they depend. Accordingly, the composition recited in the Group II claims cannot be administered other than by a aerosol spray.

As so properly construed a search these Group II claims do not require an additional burdensome search beyond the search for the Group I claims, since the Group II claims are a species of the subject matter of claims 1 or 7 of Group I.

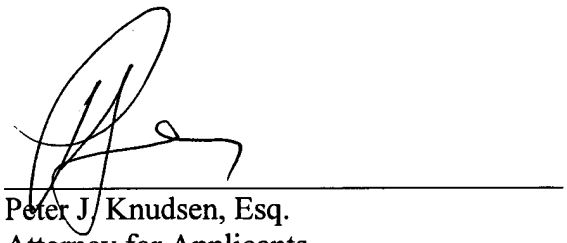
To further clarify and ensure proper claim construction and prosecution of the subject matter of Group II claims, Applicant adds claims 17-20, which correlate with the subject matter of the Group II claims.

Applicant respectfully requests reconsideration and instant rejoinder of Group II claims. Applicant respectfully requests entry of the Amendments on the basis of the reasons given above.

Reconsideration and further examination of all the claims is respectfully requested. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone applicants' attorney at 425-908-3643.

Respectfully submitted,

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Date



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Typed or printed name	Janice L. Goebel	Date	May 3, 2006